

Six years ago, in a massive crack-down on independent civil society activists, more than 100 people were detained, with 75 suffering prosecution and then later imprisonment. Of the 75 targeted by the regime for imprisonment, 35 were writers, journalists or independent librarians.

Because in Cuba the repression has been such that people are not allowed to even go to a library and read books that might be banned by the regime, individuals began to have home libraries where people could come and check out a book or read a book that might otherwise not be permitted by the Government. These people were imprisoned along with others who, in a fledgling kind of way, attempted to report conditions in Cuba.

Today, 22 of these courageous individuals remain imprisoned. In the intervening 6 years, they have been joined by others who dared to express independent thought.

Among those arrested during the 2003 "Black Spring" crackdown was Jose Luis Garcia Paneque, a doctor who became a journalist with the independent news agency Libertad—or "freedom"—in Las Tunas Province. In 2003, Cuban state security searched his home and seized his personal possessions. He was prosecuted and convicted under Cuba's Orwellian penal code for acting "against the independence or the territorial integrity of the state."

He was sentenced to 24 years in prison—imagine, 24 years in prison—for a crime of being "against the independence or the territorial integrity of the state." In fact, he was just a free journalist. He was sentenced to 24 years. He is limited to one family visit every 45 days. His health, understandably, has deteriorated and there is genuine concern for his well-being. For advocating on his behalf, the regime accused his wife of espionage and conspired to organize mobs outside their home. These government-inspired mobs threatened to burn the house while the family feared for their lives and were still inside the home. His wife and children were forced to flee the country, all because he dared to speak the truth.

Another independent journalist jailed by the regime is Normando Hernandez Gonzalez from Camaguey Province. Hernandez Gonzalez was arrested by the regime for reporting on the conditions of state-run services in Cuba and for criticizing the government's management of issues such as tourism, agriculture, fishing, and cultural affairs. He too was convicted for acting against "the independence or the territorial integrity of the state."

Following his arrest and 25-year sentence, Hernandez Gonzalez was placed in solitary confinement, allowed only 4 hours of sunlight per week, and limited communication with his family. Prison authorities encouraged inmates to harass Hernandez Gonzalez, according to his wife Yarai Reyes Marin. It is no surprise his health has declined during his imprisonment.

As technology makes incremental advances in Cuba, the regime continues to clamp down on those using it to speak freely. Around the world, bloggers share information as fast as they receive it, but Cuban bloggers are lucky to have their messages penetrate the regime's repressive Internet restrictions.

One blogger who has found a way to report on the struggles of Cuban society is a woman named Yoani Sanchez. Sanchez is able to blog, but she does so at great risk of regime retribution at any moment. By e-mailing her observations on daily life in Cuba to friends outside the country, who then post them on line, she faces potential prosecution and imprisonment. Despite the risks, Sanchez eloquently expresses her support for freedom of expression. In one post she said:

State control over the media remains intact, even though technological developments have helped people find parallel paths to keep themselves informed. Illegal satellite dishes, the controlled Internet, and books and manuals brought in by tourists have shaken the government's monopoly on providing news.

Like many other supposed "freedoms" in Cuba, the Cuban constitution actually provides for speech as long as it "conforms to the aims of socialist society."

According to the State Department's 2008 report on Cuba's human rights, anyone engaged in:

disseminating "enemy propaganda"

—is how they label it—

which includes expressing opinions at odds with those of the government, is punishable by up to 14 years in prison.

Imagine 14 years in prison for disseminating "enemy propaganda," as they determine it.

We here in the United States, with our traditions of freedom of expression and freedom of the press, often take our freedoms for granted. As we near the 3rd of May—a day in honor of free press around the world—I urge my colleagues to consider all those who are suffering for exercising their inalienable right to free speech.

I have a list here I ask unanimous consent to have printed in the RECORD. It lists all of those who are presently in prison in Cuba as a result of their desire to express themselves freely in violation of the dictates of the regime.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Ricardo Severino Gonzalez Alfonso, Normando Hernandez Gonzalez, Hector Fernando Maseda Gutierrez, Pedro Arguelles Moran, Victor Rolando Arroyo Carmona, Mijail Bargaza Lugo, Juan Adolfo Fernandez Sainz, Miguel Galvan Gutierrez, Julia Cesar Galvez Rodriguez, Jose Luis Garcia Paneque, Lester Luis Gonzalez Penton, Ivan Hernandez Carrillo.

Juan Carlos Herrera Acosta, Regis Iglesias Ramirez, Jose Ubaldo Izquierdo Hernandez, Jose Miguel Martinez Hernandez, Pablo Pacheco Avila, Fabio Prieto Llorente, Alfredo Manuel Pulido Lopez, Blas Giraldo Reyes Rodriguez, Omar Rodriguez Saludes,

Omar Moises Ruiz Hernandez, Raymundo Perdigon Brito, Oscar Sanchez Madan, and Ramon Velazquez Toranzo.

Mr. MARTINEZ. Madam President, today I will be introducing a resolution on World Freedom Day, if I may have another second to finish, and as I do, I hope many of my colleagues will join in this resolution. There may be some of us in this body who might differ on the best approach to bring freedom to Cuba. There ought to be no dissent on the issue that we all stand on the side of those who seek to freely express themselves in the midst of a very oppressive regime. So I hope we will have a lot of support for this resolution which I will be presenting later today.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Madam President, how much time is left, or would we be able to secure 20 minutes for Senator GRAHAM and myself?

The ACTING PRESIDENT pro tempore. The minority controls 7 minutes, and the majority controls 8 minutes.

Mrs. HUTCHISON. I ask unanimous consent to have 20 minutes for Senator GRAHAM and myself. If there is something else that is scheduled, I am happy to scale that back.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### GUANTANAMO BAY

Mrs. HUTCHISON. Madam President, I wish to be notified at 10 minutes so I can assure that Senator GRAHAM of South Carolina can also speak.

We are speaking today on a very important subject. We are urging President Obama today to reconsider the decision to close Guantanamo Bay until he can reassure the American people that there is a viable alternative for detaining terrorist combatants.

Let there be no mistake. We are fighting a war on terror. This is a war that is just as important as any we have ever fought. Every war that we have fought for almost two centuries in this country has been a fight for freedom, and this is a fight for freedom too.

When President Obama announced by Executive order that he would close Guantanamo Bay, my initial reaction was, What are we going to do with these prisoners? What is the plan? We have not seen a plan, yet we have an order that says we are going to execute a closing of Guantanamo Bay with no plan for what we do with them.

I have been to Guantanamo Bay. I have visited that prison. I can tell my colleagues that in my observation and everything that we have learned since, the prisoners are being treated with respect. They are being well fed. They get health care coverage they have never had in their lives. Yet President Obama is saying we are going to close it even though we don't know what we are going to do with those prisoners.

What kind of precautions would be necessary to transfer these suspected terrorists? Well, we know that American prisons are simply not experienced in handling this unique and unprecedented brand of prisoner. In the United States, even petty and unsophisticated criminals find ways to plot behind prison walls.

For example, there was a recent news release about prisoners smuggling cell phones behind bars. The problem is so widespread that I have introduced, along with Congressman KEVIN BRADY on the House side, legislation to prevent prison inmates from using smuggled cell phones. In Texas, authorities say a death row inmate, Richard Tabler, used a smuggled cell phone to make threatening calls to a State Senator. Tabler's phone was found in the ceiling above a shower, and when they found it, they also found 11 more phones belonging to other death row inmates while they were looking for Mr. Tabler's. Do we want to take the risk that key al-Qaida terrorists, including Khalid Sheikh Mohammed, the confessed mastermind of the attacks on 9/11, won't be able to do what Richard Tabler and so many other prisoners have done—get a cell phone and plot attacks or escapes?

I think many of my colleagues understand the stakes here. On July 19 of 2007, the Senate voted 94 to 3 that detainees housed at Guantanamo Bay should not be released into American society, nor should they be transferred stateside into facilities in American communities and neighborhoods. So what is the alternative? There is another alternative. We could let them go. We could release them back to their home country or to some other foreign country, but let's look at the risks of that.

We now know that as many as 61 detainees previously released from Guantanamo Bay have returned to the battlefield, many of whom are now waging war against Americans. The prisoners already released were believed to be the least dangerous and yet many have returned to the battlefield. The ones remaining are considered the most dangerous and the most likely to kill again or plot to kill again.

Earlier this year, we learned that one former Guantanamo Bay detainee, Said Ali al-Shihri, is currently serving as the deputy leader of al-Qaida in Yemen. Those terrorists are directly responsible for the 2008 bombing of the U.S. Embassy in Yemen in which 10 people were murdered. Even though Al-Shihri was transferred from Guantanamo Bay to Saudi Arabia for a period of rehabilitation, he rejoined al-Qaida and assumed a leadership role in the planning and execution of terrorist acts. With this knowledge, can we be serious that we would abandon the security of Guantanamo Bay for an alternative of foreign transfers that could pose harm to ourselves and our allies, and especially to our young men and women serving right now in the military in the Middle East?

Without a viable option—and I do not consider it viable to let them go, because we have a history of what happened with that, nor do I think it is a viable option to transfer them to a prison in the United States until we know how we are going to secure that prison from any visitors, any capability of getting cell phones or, worse yet, weapons, so that we can assure there will not be plots from an American prison to kill Americans who are innocent anywhere in our country. Unless we have a viable option, I urge the President not to set a deadline for closing Guantanamo Bay until the American people are assured that there is a safe place for them to go. I believe the safest place for them is right where they are. Guantanamo Bay is secure. There have been no escapes from Guantanamo Bay, and they are getting treated very well. I have witnessed that, and many others of my colleagues who have taken the time to visit know they are being treated well. In many cases they are getting better care than they have had in their lifetimes.

I implore the President to change this order. Let's have a plan before we release these people out into the world to plot against Americans or bring them onto our soil before we know that we have a safe, secure environment, and where communities are willing, able, and encouraging that they be there in their midst.

Madam President, thank you. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. GRAHAM. Madam President, I appreciate what the Senator from Texas has been saying. This issue of what to do with the Guantanamo Bay detainees is a central issue for the Nation and the overall war on terror, because the President is looking for partners. He keeps saying that. I stand ready to be a partner. The best-run jail in the world where they are now is Guantanamo Bay. I have been there many times. The men and women who are working in that prison are doing an outstanding job. They follow the rules. It is a model military prison. It is tough duty. What they go through every day you probably don't realize, and we can't tell you at all, but it is tough duty. Anyone serving down there is doing the country a great service.

Having said that, I understand the need to change the image of the country. I have been one of the Republicans—a military lawyer for 25 years—who understands the way we conduct this war determines whether we will win it. The high ground in military operations is usually a physical location. When you are in a battle or a war, you try to get the high ground, because that is the best place to fight the enemy from. In this war, it is an ideological struggle, so the high ground is the moral high ground. It does matter what we do.

My goal for America is to be the best we can be. Our enemies—al-Qaida and

other groups—are some of the most barbaric people in the history of the world. But here is what it comes down to. When we capture one of them, it becomes about us. They will cut people's heads off in the most brutal fashion, abuse and humiliate people. They don't give trials. They are not reasoned. They are barbarians. The fact that we choose a different way is not a weakness, it is a strength. Trust me, if we are going to lead the world to a better way, we need to show the world a better way. And there is a better way.

In World War II, we had thousands—350,000, I think—of German and Japanese prisoners housed in the United States, Nazis and Japanese prisoners committed to our destruction. We held them here under our value system, under the Geneva Conventions, in communities all over America. The Nazis and the Japanese were a tough crowd. When those prisoners were released, those who were released, they went back to their country with a view of America that helped us form the modern Japan and Germany.

Some of the people we are talking about at Guantanamo Bay are subject to war crimes trials. So I am urging the President to leave on the table the military commission option. We can reform it, but let's not criminalize this war. They are not accused of robbing a liquor store. These are not common criminals.

Under domestic criminal law, you cannot hold someone forever without a trial, nor should you. But under the law of armed conflict, if you catch a member of the enemy force, you can keep them off the battlefield as long as they present a danger. That has been military law forever.

I believe we would be better off if we look at the people who are members of al-Qaida at Guantanamo Bay as enemy combatants, part of an unorganized militia, military organization bent on our destruction, and they are a part of the enemy force, not some common criminal. We can keep them off the battlefield as long as necessary, but we have to do it within our value system.

I am urging the President that if someone at Guantanamo Bay is subject to a war crimes trial, let's don't go to Federal court, as we did with the blind sheik trial in the nineties, which was a disaster. Let's put them in a military tribunal and give them justice through the military legal system of which I have been a part for 25 years.

I can tell America one thing: The judges, the lawyers, and the jurors who wear the uniform of the United States are the best among us. These are the same people who administer justice to our own troops. It is a great place to conduct a trial because we can do things for national security in a military setting that we cannot do in Federal court. But I can assure you, justice will be rendered and people will be treated fairly. The courts-martial we have had, the commission trials we have had at Guantanamo Bay, we have seen sentences that make sense.

I have been a part of the military all my adult life. The jurors take their responsibilities extremely seriously. They hold the Government to their burden of proof. And the judges and the lawyers are outstanding.

There will be a group of people who will not be subject to war crimes trials because of the nature of the evidence, because of the unique relationship we may have between the evidence and an ally, that we are not going to subject that evidence to a beyond-a-reasonable-doubt standard, but we know with certainty, beyond a preponderance of the evidence, that this person is a member of a terrorist organization and is engaged in dangerous activities and likely to do that in the future.

What I am arguing to the administration, proposing to them, is those people we think are too dangerous to let go, let's create a national security court made up of Federal judges, somebody out of the military, who will look over the military shoulder and see if the evidence warrants an enemy combatant designation. That way, we will have an independent judiciary validating the fact that the person in custody is part of an enemy force, a danger to this country, and then have a periodic review of that person's status so they are not left in legal limbo. They will have a chance every year to make their case anew.

We have to realize that we have released more people from Guantanamo Bay than we have in detention and we have put people in Guantanamo Bay who were there by mistake. That is a fact. We threw the net too large. That happened.

Let me tell you what else has happened. Mr. President, 1 in 10 we let go has gone back to the fight. The No. 2 al-Qaida operative in Somalia was a detainee at Guantanamo Bay. We had a suicide bomber in Iraq blow himself up who was at Guantanamo Bay. We are going to make mistakes, but I want a process to limit those mistakes as much as possible.

I end with this thought. How we do this is important. We can close Guantanamo Bay and repair our image, but we have to have a legal system that has robust due process, that is transparent, that is independent, but recognizes we are at war. And that takes us to the Uyghurs.

There is a group of people in our custody whom we caught in Afghanistan who are part of a separatist movement in China. They are Muslims. They were training in Afghanistan to go back to China to take on the Chinese Government. They have been determined to no longer be enemy combatants in terms of a threat from the al-Qaida perspective, but what to do with the Uyghurs.

One thing I suggest to the President is that you cannot change immigration law. Our laws prevent a known terrorist from being released in our country. These people have engaged in terrorist activities. Their goal was to go back to China, not to come here. But

there are press reports that one of the Uyghurs was allowed to look at TV and saw a woman not properly clothed and destroyed the television. We have to make sure that, one, we follow our own laws, and the fact they were going to go back to China does not mean they are safe to release here because they have been radicalized.

We have to make some hard decisions as a nation. I stand ready with the President and my Democratic colleagues to close Guantanamo Bay, but we do need a plan. We need a legal system of which we can be proud that will protect us.

The final comment is that the idea of releasing more photos showing detainee abuse is not in our national interest. We have men and women serving overseas. It will inflame the populations. It will be used by our enemies. I urge the administration to take that case all the way to the Supreme Court and protect our troops in the field.

I understand the President's dilemma and challenge. Harsh interrogation techniques have hurt this country more than they have helped. We can be a nation that abides by the Geneva Conventions, rule of law—we have been that way for a long time—and still defend ourselves. I agree with the President there. But I do believe we need a detainee policy that understands that the people we are talking about are not run-of-the-mill criminals. They are committed terrorists, and I don't say that lightly. The only way that label should stick under the system I am proposing is if an independent judiciary validates that decision. That is the best we can do.

This decision we are going to make as a nation is important. I tried to speak my mind and be balanced. There is a way for us to work together to get this right. I look forward to working with the administration to make some of the most difficult decisions in American history. I am confident we can do it if we work together.

I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### HELPING FAMILIES SAVE THEIR HOMES ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of S. 896, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 896) to prevent mortgage foreclosures and enhance mortgage credit availability.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Illinois, Mr. DURBIN, is recognized to offer an amendment on which there will be 4 hours of debate equally divided.

AMENDMENT NO. 1014

(Purpose: To prevent mortgage foreclosures and preserve home values)

Mr. DURBIN. Madam President, I have an amendment at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mr. DODD, Mr. REID, Mr. SCHUMER, Mr. WHITEHOUSE, and Mr. HARKIN, proposes an amendment numbered 1014.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DURBIN. Madam President, America is facing a crisis, and this is what it looks like: Two buildings next to one another, one a well-kept home; next door, a foreclosed property, boarded up, vacant, vandalized. Sadly, this is a crisis which is affecting every community in America. I have seen it in the streets of Chicago. I have seen it in suburban towns. I have seen it in my downstate communities.

Madam President, 8.1 million homes are facing foreclosure in America today. That isn't my estimate, it is the estimate of Moody's. They are supposed to be good predictors of our economy. What does 8.1 million foreclosed homes represent? One out of every six home mortgages in America in foreclosure—one out of every six. It is a reality. It is a reality that affects the five out of six, our homes where we continue to make our mortgage payments and wonder what the problem is. Why is the value of my home going down? I am making the payments. It is going down because, sadly, somewhere on your block is another home in foreclosure, boarded up, an eyesore at best, a haven for criminal activity at worst—a reality that continues to grow.

Two years ago, before we even started in on this crisis as we know it, I proposed a change in the bankruptcy law, a change which I think could have forestalled this crisis we know today. Along the way, there has been resistance to this change. By whom? The banks that brought us this crisis in America have resisted this change to do something about mortgage foreclosure. That is a fact.

Last year, I offered this amendment to change the bankruptcy law, and the banking community said: Totally unnecessary; we don't need this kind of a change. This mortgage foreclosure is not going to be all that bad.

In fact, the estimates were of only 2 million homes in foreclosure last year from our friends in the banking community, the so-called experts. Here we are a year later. The estimate is now up to 8 million homes in foreclosure.

Who are these people facing foreclosure? Were they speculators and investors who were buying up properties and they thought that maybe they would double in value and they could quickly sell them? There may be a handful of those folks out there. By and large, they are families—families who are trying to keep it together,